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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,137	10/28/2003	Larry E. Hawker	555255012611	6439
7590 Paul E. Franz, Esq. JONES DAY North Point 901 Lakeside Ave Cleveland, OH 44114			EXAMINER PAUL, DISLER	
			ART UNIT 2615	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE 3 MONTHS			MAIL DATE 02/23/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/695,137	HAWKER ET AL.	
	Examiner	Art Unit	
	Disler Paul	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/10/05 and 7/20/05</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1,11,16,19 are rejected under 35 U.S.C. 101 because they pertain to non-statutory subject matters.

Claims 1,11,16,19 are pertained solely to a data structure without recitation of any step(s) to be performed on a computer or any process activity that ties to physical acts or data manipulation representing physical object or activities to achieve a practical application.

"Data structures **not claimed** as embodied in computer-readable media are descriptive material per se and **are not statutory** because they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (Claim to a data structure per se held nonstatutory.). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to b realized, and is thus statutory." See Interim Guidelines on 35 USC 101, Annex IV (a): Functional Descriptive Material.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2,6-12,15-17,19-20,23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamijo ("US 6,996,445 B1") and Cranfill et al. ("US 2003,0044028 A1").

Re claim 1, Kamijo discloses a method of processing a voice on a device ("fig.1,col.1 line 11-13") comprising: storing a plurality of volume profiles, at least one of the volume profiles defining a safe volume profile and defining a plurality of device operational modes ("col.2 line 36-37:memory stored volume settings for each application; fig.1/-the memory (140); applications (120,121); col.3 line 5-8- prevent circumstances wherein warning sound is neither too loud or weak denotes safe range volume profile; col.5 line 9-10-(plurality of modes)"); associating at least one of the device operational modes with the safe volume profile ("col.2 line 45-49"); selecting one of the device operational modes to obtain a first selected device operational mode incorporating a higher volume profile ("Fig.1:select

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one of plurality of modes (120,121) with higher volume profile (130)-volume setting adjustment for each applications; col.2 line 48-50"); determining if the first selected device operational mode is associated with the safe volume profile ("FIG.1/(150)"); and upon determining that the first selected device operational mode is associated with the safe volume profile, operating the device in the first selected device operational mode according to the safe volume profile ("Fig.1/(100);col.6 line 57-59"). While, Kamiyo teach the above method, He fail to teach the device being a communication mobile device, However, Cranfill et al. teach of a gain control of audio in which there exist a communication mobile device ("page 1[0012] line 11;page 1[0002] line 1-2") for the purpose using the mobile device's existing audio memory,signal processing,capabilities to implement the gain mapping functions. Thus taking the combined teaching of Kamiyo and Cranfill et al. as a whole, it would have been obvious for one of ordinary skill in the art to incorporate the device being a communication mobile device for the purpose of using the mobile device's existing audio memory, signal processing, capabilities to implement the gain mapping functions.

Re claim 2, the method of claim 1, further comprising defining a first volume level in the safe volume profile ("col.6 line 25-27:first volume set defined").

Re claim 6, the method of claim 1, further comprising conforming the safe volume profile to an operational standard ("Kamiyo,col.2 line 26-28-level of sound volume appropriate for each application").

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Re claim 7, the method of claim 6 with regard to associating the at least one of the mobile device operational mode with the safe volume profile, However, the recently modify combined teaching of Kamiyo and Cranfill et al. fail to disclose to teach the operational mode comprises a handsfree mode. But, Cranfill further teach of the operational mode comprises a handsfree mode ("page 1[0003] line 2") for the purpose of providing greater degree of freedom to the user. Thus, taking the combined teaching of Kamiyo and Cranfill et al. as a whole, it would have been obvious for one skill in the art to incorporate the operational mode comprises a handsfree mode for the purpose of providing greater degree of freedom to the user.

Re claim 8, the method of claim 7, wherein the operational standard relates to a non-handsfree operational mode ("cranfill,col.6 line 54-59- different applications may be implemented; fig.1/(120,121) with operating systems (100)").

Re claim 9, The method of claim 1, wherein the mobile device comprises a cordless telephone handset ("Cranfill,page 1[0002] line 1; page 4[0030] line 9-11")

Re claim 10, the method of claim 1, wherein the mobile device comprises a cellular telephone ("Cranfill, page 1[0004] line 2; page 4[0030] line 7").

Re claim 11, Kamiyo discloses a method of processing a voice on a device ("fig.1, col.1 line 11-13") comprising: storing a safe volume profile at the device; ("col.2 line 36-37:memory stored volume settings for each

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application; fig.1/-the memory (140); applications (120,121); col.3 line 5-8-
prevent circumstances wherein warning sound is neither too loud or weak
denotes safe range volume profile;)"); selecting one of a plurality of
operational modes to obtain a first selected operational mode to operate the
device ("col.5 line 9-10-(plurality of modes)"; determining if the first
selected device operational mode is associated with the safe volume
profile ("FIG.1/(150)" .; and upon determining that the first selected device
operational mode is associated with the safe volume profile, operating the
device in the first selected device operational mode according to the safe
volume profile ("Fig.1/(100);col.6 line 57-59") associating at least one of
the device operational modes with the safe volume profile ("col.2 line 45-
49") ; selecting one of the device operational modes to obtain a first
selected device operational mode incorporating a higher volume
profile ("Fig.1:select one of plurality of modes(120,121) with higher volume
profile (130)-volume setting adjustment for each applications; col.2 line 48-
50"). While, Kamiyo teach the above method, He fail to teach the device
being a communication mobile device, However, Cranfill et al. teach of a gain
control of audio in which there exist a communication mobile device ("page
1[0012] line 11;page 1[0002] line 1-2") for the purpose using the mobile
device's existing audio memory, signal processing, capabilities to implement
the gain mapping functions. Thus taking the combined teaching of Kamiyo and
Cranfill et al. as a whole, it would have been obvious for one of ordinary
skill in the art to incorporate the device being a communication mobile
device for the purpose of using the mobile device's existing audio memory,
signal processing, capabilities to implement the gain mapping functions.
While, the combined teaching of Kamiyo and Cranfill et al. as a whole, fail
to explicitly disclose the answering an incoming call with the mobile device,

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Cranfill et al. did disclose of the communication with the Mobile device ("page 1[0012] line 11;page 1[0002] line 1-2") where communication between two parties were realized, thus it must be inherent that there were occurred such a time when answering an incoming call with the mobile device by one of the party.

Re claim 15, the combined teaching of Kamijo and Cranfill et al. as a whole, teach the method of claim 11, further comprising: upon determining that the first selected operational mode is associated with the safe volume profile: operating the mobile device in the first selected operational mode according to a regular volume profile after initially operating the mobile device in the safe volume profile ("fig.1/(130,100);col.2 line 39-44"); monitoring the mobile device for a change from the first operational mode to a second operational mode incorporating a higher volume profile; upon monitoring a change from the first operational mode to a second operational mode ("fig.1/130-monitore applications; col.7 line 15-20"), determining if the second operational mode is associated with the safe volume profile ("fig.1/130-determined if modes(120,121) is registered with volume setting"); and upon determining that the second selected operational mode is associated with the safe volume profile, operating the mobile device in the second selected operational mode according to the safe volume profile ("fig.1/100").

Re claim 16, with regard to a computer readable medium with instruction operable to be executed by a mobile device and upon such execution cause the mobile device to Mobile device operational instructions stored in a computer readable, has been analyzed and rejected with respect to claim 1.

Re claim 17, a device operable to execute voice operations ("Fig.1,col.1 line 11-13"), comprising: means for storing a plurality of volume profiles("fig.1/140-memory"), at least one of the volume profiles defining a safe volume profile, for defining a plurality of device operational modes ("col.2 line 36-37:memory stored volume settings for each application; fig.1/-the memory (140); applications (120,121); col.3 line 5-8-prevent circumstances wherein warning sound is neither too loud or weak denotes safe range volume profile; ; col.5 line 9-10-(plurality of modes)"), and for associating at least one of the device operational modes with the safe volume profile("col.2 line 45-49"); means for determining if the first selected device operational mode is associated with the safe volume profile("fig.1/150"); and means for operating the mobile device in the first selected device operational mode according to the safe volume profile upon determining that the first selected device operational mode is associated with the safe volume profile ("fig.1/100"). While, Kamijo fail to explicitly disclose a mean for selecting one of the mobile device operational modes to obtain a first selected device operational mode incorporating a higher volume profile, He did disclose of many applications ("fig.1 (120,121)"); and further more he did disclose of volume being adjusted based on each applications ("col.6 line 55-59"), thus it is inherent that there must exist such a mean for selecting one of the many operational modes. While, Kamijo teach the above method, He fail to teach the device being a communication mobile device, However, Cranfill et al. teach of a gain control of audio in which there exist a communication mobile device ("page 1[0012] line 11;page 1[0002] line 1-2") for the purpose using the mobile device's existing audio memory,signal processing,capabilities to implement the gain mapping functions. Thus taking the combined teaching of Kamijo and Cranfill et al. as

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a whole, it would have been obvious for one of ordinary skill in the art to incorporate the device being a communication mobile device for the purpose of using the mobile device's existing audio memory, signal processing, capabilities to implement the gain mapping functions.

Re claim 19, a device operable to execute voice operations, comprising: a processing subsystem ("col.1 line 20;col.5 line 59-60"); and a memory subsystem, the memory subsystem storing processing subsystem operational instructions operable to be executed by the processing subsystem and upon such execution cause the mobile device to: store a safe volume profile ("fig.1/140"); define a plurality of device operational modes; ("col.5 line 9-10-(plurality of modes)"); associate at least one of the device operational modes incorporating a higher volume profile with the safe volume profile ("col.2 line 45-49; with higher volume profile (130)-volume setting adjustment for each applications; col.2 line 48-50")"); monitor if one of the device operational modes has been selected ("fig.1/150"); upon monitoring that one of the device operational modes has been selected, determine if the selected mobile device operational mode is associated with the safe volume profile ("FIG.1/(150)"); and upon determining that the selected device operational mode is associated with the safe volume profile, operate the device in the selected device operational mode in accordance with the safe volume profile ("Fig.1/(100);col.6 line 57-59"). While, Kamiyo teach the above method, He fail to teach the device being a communication mobile device, However, Cranfill et al. teach of a gain control of audio in which there exist a communication mobile device ("page 1[0012] line 11;page 1[0002] line 1-2") for the purpose using the mobile device's existing audio

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memory, signal processing, capabilities to implement the gain mapping functions. Thus taking the combined teaching of Kamijo and Cranfill et al. as a whole, it would have been obvious for one of ordinary skill in the art to incorporate the device being a communication mobile device for the purpose of using the mobile device's existing audio memory, signal processing, capabilities to implement the gain mapping functions.

Re claims 12,20 have been analyzed and rejected with respect to claim 2 respectively.

Re claims 23-24 have been analyzed and rejected with respect to claims 9-10 respectively.

3. Claims 3-4,13-14,18,21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamijo ("US 6,996,445 B1") and Cranfill et al. ("US 2003/0044028 A1") and further in view of Shimizu et al. ("US 2002/0031236 A1").

Re claim 3, Kamijo and Cranfill et al as a whole, teach the method of claim 2 with the adjustment level in the first selected mobile device operational mode. However, Kamijo and Cranfill et al. as a whole, fail to teach disabling the adjustment of the volume level from the first volume level for an initial time period during operation. However, Shimizu et al. disclose a sound volume adjustment method in which disabling the adjustment of the volume level from the first volume level for an initial time period during operation ("page 7[0069] line 1-4") for the purpose of preventing the mode from being switched by mistake so that sound can be prevented from being changed considerably. Thus, taking the combined teaching of Kamijo and

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Cranfill et al. and now shimizu et al. as a whole, it would have been obvious for one of the ordinary skill in the art to modify the teaching of Kamijo and Cranfill et al. as a whole, by incorporating the disabling the adjustment of the volume level from the first volume level for an initial time period during operation for the purpose of preventing the mode from being switched by mistake so that sound can be prevented from being changed considerably.

Re claim 4, the method of claim 3 with mobile device operational mode associated with safe volume profile, However, the recently modify combined teaching of Kamijo and Cranfill et al. fail to disclose to teach the operational mode comprises a handsfree mode. But, Cranfill further teach of the operational mode comprises a handsfree mode ("page 1[0003] line 2") for the purpose of providing greater degree of freedom to the user. Thus, taking the combined teaching of Kamijo and Cranfill et al. as a whole, it would have been obvious for one skill in the art to incorporate the operational mode comprises a handsfree mode for the purpose of providing greater degree of freedom to the user.

Re claims 13-14, have been analyzed and rejected with respect to claim 3-4 respectively.

Re claims 18,21 have been analyzed and rejected with respect to claim 3 respectively.

Re claims 22 has been analyzed and rejected with respect to claim 4 respectively.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kamijo ("US 6,996,445 B1") and Cranfill et al. ("US 2003/0044028 A1") and further in view of Curtis et al. ("US 6,389,139 B1").

Re claim 5, the method of claim 2 with the safe volume profile, However, the combined teaching of Kamijo and Cranfill et al. as a whole, fail to disclose defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level from the first volume level to a volume level that exceeds the maximum safe volume. But, Curtis et al. disclose a volume control in which defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level from the first volume level to a volume level that exceeds the maximum safe volume ("col.15 line 15-20") for the purpose preventing the electrical damage or mechanical overload. Thus, taking the combined teaching of Kamijo and Cranfill et al. and now Curtis et al. as a whole, it would have been obvious for one of the ordinary skill in the art to modify the teaching of Kamijo and Cranfill et al. as a whole, by incorporating the defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level from the first volume level to a volume level that exceeds the maximum safe volume for the purpose preventing the electrical damage or mechanical overload.

Conclusion

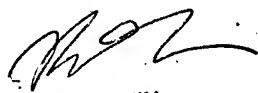
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Disler Paul whose telephone number is 571-272-2222. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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